

EX PARTE OR LATE FILED

USWEST

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OCT 13 1995

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

EX PARTE

October 13, 1995

Mr. William F. Caton
Acting Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Stop Code 1170
Washington, D.C. 20554

RE: In the Matter of Bell Operating Companies' Joint Petition for Waiver of
Computer II Rules -- CC Docket Nos. 85-229, 95-20, 90-623 -- Ameritech
CEI Plan for Personal Access Service

Dear Mr. Caton:

The purpose of this Ex Parte, of which two copies are provided, is to set forth the position of U S WEST Communications, Inc. ("U S WEST") on comments filed by MCI Telecommunications Corporation ("MCI") on the Comparably Efficient Interconnection ("CEI") Plan of Ameritech for a new enhanced service called Personal Access Service. The Ameritech CEI Plan was filed on September 1, 1995. The pertinent MCI comments were filed on September 25, 1995, and Ameritech replied on October 2, 1995.

U S WEST does not wish to interfere in any way with the rapid processing of the Ameritech CEI Plan. Ameritech's reply comments deal fully and finally with the MCI position in the context of Ameritech's own service. However, the position set forth by MCI in its comments on the Ameritech CEI Plan is wrong for reasons which go beyond the specifics of the Ameritech CEI Plan itself. This Ex Parte

briefly addresses a fundamental mistake of MCI which goes far beyond its misguided attack on Ameritech.

MCI's position is that, whenever a computer platform offers features and functions such as switching and routing which may properly be associated with basic services, together with functions such as voice storage which are always classified as enhanced, the platform must be split into basic and enhanced functionalities and the basic functionalities offered to the public under open network architecture ("ONA") principles. As few computer platforms could be economically configured in this manner, MCI essentially seeks yet another device to disrupt efficient carrier provisioning of services to the public (undoubtedly banking on the notion that none of the strange rules it dreams up for traditional exchange carriers will never apply to its own competitive local exchange services).

However, the Computer II rules classified only transmission services as immutably basic in nature. Non-transmission functions such as switching and routing may properly be associated with an enhanced service in many configurations in which the switching or routing¹ is integrated into the enhanced service platform. MCI's assertion that the computer applications which the Federal Communications Commission ("Commission") noted could properly be offered as basic when utilized to complete a telephone call must always be offered as basic (and MCI granted access to them) simply makes no sense at all. For example, one such "adjunct to basic" application is the provision to the customer of the ability to modify its communications services via interaction with a central computer.² When such a computer enables the customer to re-configure its basic services, the service is basic and is tariffed (subject, of course, to ONA compliance). On the other hand, when such a computer service enables a customer to reconfigure its enhanced service, the reconfiguration service is itself enhanced. Any other approach would produce absurd results.

In fact, the Commission has even ruled that, in at least some applications, even transmission itself can be classified as enhanced when combined with enhanced services and functions. In enunciating the so-called "contamination theory," the

¹ In the Matter of Amendment of Section 64.702 of the Commission's Rules and Regulations (Second Computer Inquiry), Final Decision, 77 FCC 2d 384, 420 ¶ 96 (1980), on recon., 84 FCC 2d 50 (1980), on further recon., 88 FCC 2d 512 (1981), aff'd sub nom. Computer and Communications, Etc. v. FCC, 693 F.2d 198 (D.C. Cir. 1982), cert. denied., 103 S. Ct. 2109 (1983).

² In the Matter of North American Telecommunications Association, Petition for Declaratory Ruling Under Section 64.702 of the Commission's Rules Regarding the Integration of Centrex, Enhanced Services, and Customer Premises Equipment, Memorandum Opinion and Order, 101 FCC 2d 349, 359 ¶ 24 (1985).

Commission held that basic transmission service combined with protocol conversions or other enhanced functions could "contaminate" even the transmission itself - making the entire service enhanced.³ While the Commission's authority to exempt basic common carrier transmission services from the tariffing requirements of Section 203 of the Communications Act on account of their combination with enhanced services or functions may be somewhat suspect in the light of MCI Telecommunications Corporation v. AT&T,⁴ the essential principle that any carrier can lawfully combine various computer functions into a single unified enhanced service and offer the unified service (itself connected to the basic network via ONA services and principles) to the public remains clear. MCI's argument to the contrary would, if accepted, simply make ONA and Computer III unworkable.

Of course, it must be remembered that MCI is the leading advocate of requiring that all Bell Operating Companies' ("BOC") enhanced services be required to be placed in a "fully separate subsidiary." When MCI's position that computer platforms must be separated into basic and enhanced services and functions is put into the context of MCI's longer-term strategy of forcing a return to the Computer II separate subsidiary world, the full scope of the chaos which its position would bring about becomes even more clear. Simply stated, under MCI's position, BOCs would be effectively foreclosed from offering enhanced services, because the various elements of any service would need to be analyzed and put into the appropriate separate corporation. Such a scenario would, of course, simply be impossible, and MCI would have been permitted to utilize the regulatory process to achieve an end which was entirely pernicious to the public interest.

In denying MCI's request in the context of the Ameritech CEI Plan, the Commission should reaffirm the essential principle that non-transmission functions may

³ In the Matters of Amendment to Sections 64.702 of the Commission's Rules and Regulations (Third Computer Inquiry); and Policy and Rules Concerning Rates for Competitive Common Phase II Carrier Service and Facilities Authorizations Thereof. Communications Protocols under Sections 64.702 of the Commission's Rules and Regulations. Report and Order, 2 FCC Rcd. 3072, 3111, n.21 (1987); Memorandum Opinion and Order on Reconsideration, 3 FCC Rcd. 1150, 1170, n.23 (1988).

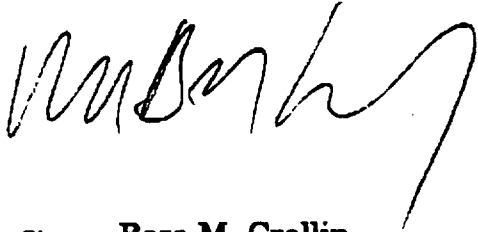
⁴ MCI Telecommunications v. American Tel. & Tel., 114 S. Ct. 2223 (1994).

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properly be associated with either basic or enhanced services, based on the manner in which they are configured.

Please do not hesitate to contact the undersigned should you have any questions.

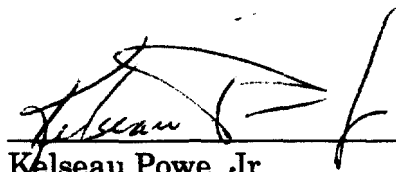
Sincerely,

A handwritten signature in black ink, appearing to read 'Rose M. Crellin', with a long, sweeping horizontal stroke extending to the right.

c: Rose M. Crellin
Blaise Scinto
Attached Service/Certificate List

CERTIFICATE OF SERVICE

I, Kelseau Powe, Jr., do hereby certify that on this 13th day of October, 1995,
I have caused a copy of the foregoing **EX PARTE OF U S WEST**
COMMUNICATIONS, INC., to be served via first-class United States Mail,
postage prepaid, upon the persons listed on the attached service list.



Kelseau Powe, Jr.

***Via Hand-Delivery**

(CC90623C.COS/BM/lh)

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